IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2012 of 1987

with
CIVIL APPLICATION No.1521 OF 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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B P PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR BD KARIA for Petitioner(s) : 1,MS HANSA B PUNANI for Petitioner(s) : 1,
Mr L.B.Dabhi, Ld.APP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 09/01/2006

ORAL JUDGMENT

1. The petitioner has filed this petition under

Article 226 of the Constitution of India praying for declaration that the Gujarat Development Services (Lower Standard and Higher Standard) Departmental Examinations Rules of 1979 are not applicable to the petitioner and that the petitioner is entitled to be promoted as the Taluka Development Officer as per his seniority and merit. The petitioner has also prayed for the direction to the respondents to give the petitioner deemed date of promotion as Taluka Development Officer on the date when his next junior was promoted as Taluka Development Officer. The petitioner has also prayed for interim relief to the effect that the respondents may be restrained from reverting the petitioner from the post of Taluka Development Officer.

2. During the pendency of the aforesaid petition, the petitioner has also filed Civil Application No.1521 of 1989 seeking direction to the respondents to promote the petitioner as Taluka Development Officer on the same post as his juniors were promoted. An alternative prayer was made to

hear the matter peremptorily and fix the matter for final hearing.

3. As far as Special Civil Application is concerned, this Court has admitted the petition and rule was issued on 21.10.1988. The court has also directed that this matter to be heard alongwith Special Civil Application No.720 of 1986. The Court has, however, refused the interim relief.

4. The petitioner has filed Civil Application only because the petitioner's juniors were promoted as Taluka Development Officer. However, this Civil Application was ordered to be heard alongwith main matter.

5. As stated in the Civil Application, the petitioner was to retire in the year 1991 and the petition is of 1987 and Civil Application is of the year 1989 and the same could not be decided despite the fact that prayer was made by the petitioner for early hearing. Be that as it may, by efflux of time the petition does not survive and has become

infructuous. Even otherwise at the time of admitting the matter, this court has directed the office to place Special Civil Application No.720 of 1986. That petition has already been dismissed vide order dated 09.03.2001 by this Court. However, no speaking order was passed by the Court and in absence of instructions and for want of prosecution the said matter was dismissed. In any case, 19 years from the date of filing of the petition, it hardly survives. Hence, both this petition and the civil application are disposed of as having become infrucutuous. Liberty to move this Court in case of difficulty, or need so arises in future.

6. Rule is discharged without any order as to costs.

(K.A.PUJ, J.)

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